

UNITED STATES BANKRUPTCY COURT
DISTRICT OF PUERTO RICO

In re The Financial Oversight and Management Board for Puerto Rico, as representative of the Commonwealth of Puerto Rico, et al. and particularly, & Administración de Servicios de Salud Mental y Contra la Adicción ("ASSMCA") Debtor	CASE NO. 17-BK 3283-LTS PROMESA Title III 48 U.S.C. 2101 <i>et seq.</i>
Josefina Guinot Meléndez, Creditor	Matter: Lift of Stay and Nondischargeability

REQUEST FOR LIFT OF STAY,

I, JOSEFINA GUINOT MELÉNDEZ, creditor in a sum in excess of \$500,000 of the above-named debtor The Financial Oversight and Management Board for Puerto Rico, as representative of the Commonwealth of Puerto Rico, et al. Debtors), allege and pray:

1. For the following reasons, I respectfully request the lifting of the automatic stay of administrative proceedings in Josefina Guinot-Meléndez vs. Administración de Servicios de Salud Mental y Contra la Adicción ("ASSMCA"), case No. 2001-07-0054 before the Public Service Appellate Commission (Comisión Apelativa de Servicio Público, or C.A.S.P., for its Spanish abbreviation).

RELEVANT BACKGROUND

2. I, Creditor Josefina Guinot Meléndez (hereinafter I or Creditor), now almost 76 years old, worked at Debtor ASSMCA as a career employee from 1991 until I was unfairly and unjustly dismissed on July 17, 2001 due to my sex and sexual orientation.

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3. On July 19, 2001, I timely appealed the unjust and illegal dismissal before the la Junta de Apelaciones del Sistema de Administración de Personal ("J.A.S.A.P."), which subsequently was replaced by the Comisión Apelativa de Servicio Público (C.A.S.P.). I refuted and denied the false allegations on which the dismissal was based, and requested reinstatement. In the meantime, as a result of the dismissal I was forced to work at unrewarding lower paying jobs, such as street vendor of a hot dog cart, delivering pizzas, and night guard.

4. On October 22, 2001, ASSMCA answered the administrative appeal.

5. Since in 2001 the J.A.S.A.P. was not authorized to adjudicate or grant damages for discrimination, on June 28, 2002 I timely filed state court civil lawsuit No. KPE 2002-1438 for violation of Title VII, requesting legal, mental and emotional damages. When the law was later changed to permit J.A.S.A.P. and its sucesors (C.A.S.P.) to adjudicate discrimination, by agreement of the parties the state court discrimination case was dismissed *without* prejudice in order to pursue the discrimination claims in the administrative case.

6. Section 2163(g) of the Uniform Administrative Procedures Act (3 LPRA § 2163 (g)) provides that:

(g) Any case submitted to an adjudicative proceeding before an agency shall be resolved within a term of six (6) months, from its filing, except in exceptional circumstances.

7. After fifteen (15!) years of frustrating discovery disputes and motion practice and of unwarranted delay despite repeated requests for an adjudicative

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hearing, on January 12, 2016 the C.A.S.P. set a status hearing for January 28, 2016, and it finally set the adjudicative hearing for February 2016.

8. The administrative hearing was held February 25 y 26 and April 7, 2016.

9. The C.A.S.P. then delayed issuing judgment for over two years despite repeated written requests and telephone inquiries, during which time we were assured that the administrative case was not part of the present bankruptcy case.

10. Based on information and belief, the C.A.S.P. examiner issued his report and recommendations on July 13, 2018.

11. On August 7, 2018, the C.A.S.P. informed that it abstained from considering the report, and ordered the stay of the state administrative case pursuant to the automatic stay provisions of the Bankruptcy Code. (I emphasize that, despite repeated specific queries, until that time the C.A.S.P. stated that the administrative case was not part of the present bankruptcy proceedings.)

12. I am currently almost 76, and have been discriminatorily denied employment, health and retirement benefits by ASSMCA. My residence was hard hit by Hurricane María. I am currently unemployed, have no pension, subsist from social benefits that do not cover my basic necessities. I am in difficult financial straits to the extent that I needs to grow plantains and bananas to feed myself. I walk with a cane, and am in ill health.

13. I respectfully request that the automatic stay be lifted as contemplated in Bankruptcy Code Section 642(d)(1), so that the C.A.S.P. can issue a resolution

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based on the Examiner's July 13, 2018 report and recommendations. The 18 year delay and the uncertainty it has inflicted on me are unconscionable. I would not like to wait until I am gone to be vindicated. That would be a miscarriage of justice indeed.

14. If the stay is lifted, I respectfully request that the C.A.S.P. be ordered to immediately produce the Examiner's belated July 13, 2018 report and conclusions, and that the C.A.S.P. be given a specific time frame in which to render its resolution.

PRAYER

WHEREFORE, I, Josefina Guinot-Meléndez pray for the entry of judgment against Debtor-ASSMCA as follows:

1. That the Court determine that the instant bankruptcy proceedings be dismissed as to myself and that ASSMCA's debts be adjudicated non-dischargeable as to me, as a result of ASSMCA's knowing and grossly negligent and wilfull malicious actions, which render it "not a member of the class of 'honest but unfortunate debtor[s]'" that the bankruptcy laws were enacted to protect"

2. In the alternative, I respectfully request that the automatic stay be lifted, so that C.A.S.P. can issue a resolution based on the Examiner's July 13, 2018 report and recommendations.

3. If the stay is lifted, I respectfully request that the C.A.S.P. be ordered to immediately produce the Examiner's belated July 13, 2018 report and conclusions, and that the C.A.S.P. be given a specific time frame in which to render its resolution.

4. For costs herein incurred; and

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5. For such other and further relief as this Court deems just and proper.

April 16 2019
DATED:

Josefina Guinot Meléndez
Josefina Guinot Meléndez